

**REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 3 has been cancelled. Claim 1 is currently being amended.

This amendment changes and deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 2, and 4-24 are now pending in this application.

**IDS**

The Office states that one of the references cited in the IDS is not in English and has not been considered. However, the absence of a translation or an English-language counterpart document does not relieve the PTO from its duty to consider any submitted document (37 CFR § 1.98 and MPEP § 609). A courtesy copy of the ISR that was attached to the IDS which set forth the portion of each document considered relevant by the examiner has been filed with this response. Accordingly, Applicants request that the reference be considered.

**Claim Objections**

Claim 3 was objected to for informalities. In response, Applicants have cancelled claim 3 making the objection moot. Accordingly, Applicants request that the objection be withdrawn.

**Double Patenting**

Claim 3 was objected to for being a substantial duplicate of claim 4. In response, Applicants have cancelled claim 3 making the objection moot. Accordingly, Applicants request that the objection be withdrawn.

**Claim Rejections under 35 U.S.C. § 103**

Claims 1-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,719,918 (“Sebetciouglu”) in view of U.S. Patent Publication No. 2003/0004876 (“Jacobson”). In response, without agreeing or acquiescing to the rejection, Applicants have amended independent claim 1. Further, Applicants respectfully traverse the rejection for the reasons set forth below.

Applicants rely on MPEP § 2143.03, which requires that all words in a claim must be considered in judging the patentability of that claim against the prior art. Here, the cited references do not identically disclose, teach or suggest all the claim limitations. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Independent claim 1 is directed to a “Transaction device” comprising, in addition to other elements, an apparatus “configured with an adaptable perimeter selected to cover a determined zone, close to the station, wherein the connection protocol is configured to allow the initial exchange of an identity information (IDS) transmitted by a mobile terminal present in the zone in exchange for a unique temporary code (IDT), such exchange being followed by the launch of a background function allowing the preparation of at least part of a transaction on the basis of the identity information (IDS), and wherein the station is capable, upon presentation of the unique temporary code (IDT), of recovering, then completing as required, and validating the transaction” (Emphasis added).

The claimed device remotely processes one part of a transaction (identification check for example) via the claimed background function and then completes said transaction when a user is at the service delivery machine. The preprocessing of the transaction can be initiated only when the user is located within a determined perimeter around the service delivery machine and the transaction can be completed only when the user is at the machine itself.

The determined perimeter and the service/transaction are linked together. For example, when the invention is carried out with an ATM, the perimeter has to be chosen by taking the following into account: (1) the distance that can be traveled by the user between initiating of the transaction and arriving at the delivery cash automate and (2) the proximity of another ATM, etc. Accordingly, the perimeter must be adaptable to cover the zone/area desired.

In contrast, the cited references do not disclose, teach or suggest each and every element recited in independent claim 1.

Sebetciouglu is based on routing communication. The Office Action asserts that the Abstract, Figs. 2-6, 10 and 12, Col. 1, lines 9-60, Col. 3, line 1- Col. 4, line 4, Col. 5, line 57-Col. 6, line 46, and Col. 15, line 28-Col. 16, line 54 correspond to the limitation “such exchange being followed by the launch of a background function allowing the preparation of at least part of a transaction on the basis of the identity information (IDS).”

However, upon careful reading of the passages cited in the Office Action, Applicants submit that at least the limitation of “such exchange being followed by the launch of a background function allowing the preparation of at least part of a transaction on the basis of the identity information (IDS)” is not identically disclosed in such a way that a rejection under 35 U.S.C. § 103 can be supported. That is, the numerous passages cited do not disclose, teach or suggest launching a background function that prepares part of a transaction.

Similarly, the Office Action asserts that Col. 14, lines 56-59 and Col. 15, line 28-Col. 16, line 54 correspond to the limitation “wherein the station is capable, upon presentation of the unique temporary code (IDT), of recovering, then completing as required, and validating the transaction.” However, upon careful reading of the passages cited in the Office Action, Applicants submit that at least the limitation of “wherein the station is capable, upon presentation of the unique temporary code (IDT), of recovering, then completing as required, and validating the transaction” is not identically disclosed in such a way that a rejection under 35 U.S.C. § 103 can be supported. For example, Col. 14, lines 56-59 used the word “recovery” in the context of software recovering from an error. However, recovering software from an error is not the same as “wherein the station is capable, upon presentation of

the unique temporary code (IDT), of recovering, then completing as required, and validating the transaction” as claimed in claim 1.

In addition, the Office Action acknowledges that Sebetciouglu fails to disclose that “the apparatus is configured with an adaptable perimeter selected to cover a determined zone, close to the station” as claimed in amended claim 1. *See* Office Action at p. 4. To cure the deficiencies of Sebetciouglu, the Office Action relies on Jacobson. This contention is respectfully traversed.

In particular, it is submitted that secondary citation to Jacobson does not remedy the conceded deficiency in the primary citation to Sebetciouglu. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Jacobson and Sebetciouglu is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Office Action asserts that paragraph [0143] corresponds to the limitation “the apparatus is configured with an adaptable perimeter selected to cover a determined zone, close to the station.” Paragraph [0143] discloses the use of a short range radio communication protocol such as Bluetooth. However, a device with a conventional short range radio communication protocol is not the same as an apparatus “configured with an adaptable perimeter selected to cover a determined zone, close to the station.” That is, Jacobson does not disclose, teach or suggest an adaptable perimeter chosen to cover a specific zone such as a store.

When determining whether a claim is obvious, an examiner must make “a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art.” *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Here, the cited references fail to disclose each and every limitation in as complete detail as is contained in amended independent claim 1.

Claims 2 and 4-24 depend from independent claim 1 and should be allowed for the reasons set forth above without regard to further patentable limitations contained therein.

If this rejection of the claims is maintained, the examiner is respectfully requested to point out where the above-mentioned features are disclosed in the cited references.

**CONCLUSION**

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.


Respectfully submitted,

Date

5/12/10

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5416  
Facsimile: (202) 672-5399

By

 Reg. No. 59,394

Bj Brian J. McNamara  
Attorney for Applicant  
Registration No. 32,789